

ORDINANCE ADOPTING MODIFICATIONS TO CHAPTER 70, ARTICLE II, SECTION 70-50 OF THE DURHAM CITY CODE

WHEREAS, the current City of Durham Code of Ordinances, § 70-50 Code does not provide for allow the City of Durham to enter in to cost-sharing agreements with developers to install required looping waterlines and establish service area fees for waterline construction to recover the City's costs.

NOW THEREFOR BE IT ORDAINED BY THE DURHAM CITY COUNCIL:

Repeal the existing Chapter 70, Article II, Section 70-50 of the Durham City Code of Ordinances and replace it in its entirety with the following:

Sec. 70-50. - Capital facility and service area fees for water and sewer connections.

- (a) Capital facilities fees for all new connections to the city's water and/or sewer system shall be as set by city council. The fees for one-inch meter connections to the water and sewer system shall be the same as for five-eighths-inch meter connections to the water and sewer system where the larger meter is necessary not because of any additional needed capacity of volume of service but rather, solely to ensure adequate water pressure. The fees for replacement of an existing meter with a meter of larger size shall be determined by subtracting the fees chargeable for the old meter size from the fees chargeable for the new meter size. Meters used to provide a second water-only service to single-family residential customers for outdoor/irrigation purposes shall be exempted from capital facility fees.

Properties adjoining water or sewer extensions that were approved by the city council as of July 1, 2008 and which were not assessed by March 1, 2008 may pay the capital facilities fee rate in effect at the time of city council approval of the extension provided that a completed application for service under subsection (b) or (c) is received by November 1, 2008.

City council may also establish future water and sewer service areas ("service areas") that are outside the city's corporate limits at the time of establishment. Service areas may be established when it is anticipated by the city that infrastructure (for example, gravity sewer outfalls, lift stations, force mains, or water line loops) will need to be constructed in order to provide water and sewer service to new development within the service area. Based upon the anticipated cost to construct the required infrastructure, city council may establish fees ("service area fees") that will be charged to new residential and commercial development within the service area that will make use of the infrastructure.

- (b) The fees, other than service area fees, may be paid in installments where the city council determines that the property being connected to the city's water or sewer system meets all of the following qualifications:
 - (1) Service must be obtained from existing lines or outfalls without the extension of street water or sewer mains;
 - (2) The property is being served by on-site or private water or sewer facilities at the time that the request for service is made;
 - (3) The service connection includes:
 - a. The installation of a three-fourths-inch water service, a five-eighths-inch water meter, or one-inch water meter where the larger meter is necessary not because of any additional needed capacity or volume of service but rather solely to ensure adequate water pressure; or

- b. The installation of a four-inch sewer service; and
 - (4) The city has received and completed application for payment of fees in installments. Fees under this subsection (b) shall be payable in eight equal annual installments. The first installment is due and payable 50 days from the date when the city approves payment of the facilities fee in installments. Subsequent installments are due and payable each succeeding year thereafter on the anniversary of the date when the city approves payment of the facilities fee in installments. Installments shall bear interest at an interest rate set by the city council, not to exceed nine percent per annum, from the date when the city approves payment of the facilities fee in installments. From and after the date that the city approves payment of the facilities fee in installments, the fees shall be a lien on the property as provided in section 115.6(c) of the Charter. The provisions of section 115.6(d) of the Charter shall apply where any installment, with accrued interest, is not paid when due.
 - (c) Except as otherwise provided in subsection (b), the fees, other than service area fees, shall be payable at a time an application for service connection is filed. If for any reason, connection is made or occurs prior to payment of the fees and the city has not previously approved payment of the fees in installments as provided in subsection (b), then the city shall bill the full amount of the fees on a combined utility bill for one or more public enterprise services including water and/or sewer service. In the event the customer does not pay the full amount of the combined utility bill, the partial payment will be applied to the respective charges as provided in section 70-654(a) and water and/or sewer service to the property may be terminated as provided in sections 70-57, 70-58 and 70-59.
- Service area fees are due to the city at the time of construction drawing permitting or at the time established in a cost sharing agreement if such an agreement has been entered into between the city and a developer or developers pursuant to Code section 70-108. When a project does not require construction drawing approval, service area fees are due upon the submittal of a connection fee application (for meters, sewer taps, etc.).
- (d) The fees collected shall be earmarked for and applied to the costs of constructing new water supply, water treatment and wastewater treatment facilities and expansions to existing facilities. Service area fees shall be reimbursement to the city for costs incurred by the city for the construction of the infrastructure necessary to provide water or sewer service to the associated service area.

(Ord. No. 14749, § 2, 5-18-2015)

Editor's note— Ord. No. 14749, § 2, adopted May 18, 2015, repealed and replaced § 70-50 in its entirety. Former § 70-50 pertained to capital facilities fees for water and sewer connections, and was derived from Code 1982, § 23-40.1; Ord. No. 6837, § 1, adopted December 2, 1985; Ord. No. 7845, § 1, adopted June 28, 1989; Ord. No. 9003, § 1, adopted June 28, 1990; Ord. No. 9508, §§ 1, 2, adopted March 16, 1992; Ord. No. 9578, § 1, adopted June 29, 1992; Ord. No. 9676, § 1, adopted August 17, 1992; Ord. No. 10087, § 1, adopted March 7, 1994; Ord. No. 10308, § 1, adopted October 24, 1994; Ord. No. 11280, § 1, adopted October 20, 1997; Ord. No. 11307, § 1, adopted December 1, 1997; Ord. No. 12585, § 1, adopted September 1, 2002; Ord. No. 12967, § 1, adopted June 21, 2004; Ord. No. 13270, § 1, adopted June 19, 2006; Ord. No. 13427, § 1, adopted June 18, 2007; Ord. No. 13594, § 1, adopted May 5, 2008 and Ord. No. 14097, § 1, adopted February 21, 2011.